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C O N F I D E N T I A L SECTION 01 OF 03 ZAGREB 000305

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STATE FOR EUR, EUR/SCE, S/WCI  
THE HAGUE FOR JOHNSON/KAYE/WHEATON

E.O. 12958: DECL: 1.6X6 5 YEARS AFTER CLOSURE OF ICTY  
TAGS: [KAWC](#) [PGOV](#) [PREL](#) [PGOV](#) [PREL](#) [PGOV](#) [PREL](#) [HR](#) [RVKAWC](#) [ICTY](#) [HR](#) [RV](#)  
SUBJECT: DOES THE OTP HAVE A STRATEGY FOR CROATIA?

REF: A. THE HAGUE 236

[1](#)B. JOHNSON - SILBERSTEIN 2/7/03 E-MAIL  
[1](#)C. 02 ZAGREB 2298

CONFIDENTIAL

PAGE 02 ZAGREB 00305 01 OF 03 120643Z  
[1](#)D. 02 ZAGREB 2565

CLASSIFIED BY: AMBASSADOR LAWRENCE G. ROSSIN, REASONS 1.5(B)  
AND (D) AND 1.6

SUMMARY

[1](#)1. (C) THOMAS OSORIO, HEAD OF ICTY'S ZAGREB OFFICE, TOLD US THAT OTP SPOKESPERSON FLORENCE HARTMANN'S FEBRUARY 5 STATEMENT CRITICIZING THE GOC FOR FAILING TO APPREHEND ICTY INDICTEE ANTE GOTOVINA AND FOR FAILING TO MEET ICTY INFORMATION REQUESTS REPRESENTS THE OPENING SALVO OF A NEW OTP BID TO PRESS THE GOC TO TAKE MORE VISIBLE ACTION TO ARREST THE FUGITIVE. OSORIO SAID THE OTP IS "CONVINCED" THAT THE GOTOVINA IS HIDING IN CROATIA, BUT WAS UNWILLING (OR UNABLE) TO OFFER CONCRETE EVIDENCE TO SUBSTANTIATE HARTMANN'S HARSH CLAIMS. OSORIO, WHO WAS NOT/NOT CONSULTED BEFORE HARTMANN'S PRESS STATEMENT, THOUGHT THAT HER CRITICISM OF GOC DOCUMENT SHARING LAPSES WAS OVERSTATED.

[1](#)2. (C) WHILE THE OTP OFTEN HAS GOOD REASON TO BE FRUSTRATED WITH THE GOC -- IT IS A RELUCTANT AND FAIR WEATHER PARTNER -- THE OTP URGENTLY NEEDS TO IMPROVE THE MANAGEMENT OF ITS "CROATIA ACCOUNT." MISSTEPS IN THE NOW-SUSPENDED BOBETKO WAR CRIMES CASE, PARTICULARLY THE OTP DECISION NOT TO INTERVIEW THE SUSPECT BEFORE INDICTING HIM (REF C), HELPED FOSTER A CRISIS THAT WRACKED THE GOC IN FALL 2002, DIMINISHED ICTY'S CREDIBILITY HERE AND COMPLICATED CROATIAN EU ASPIRATIONS WITH NOTHING TO SHOW FOR THE EFFORT. WE SHOULD CONTINUE TO PRESS THE GOC ON GOTOVINA AND ICTY COOPERATION WRIT LARGE.

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PAGE 03 ZAGREB 00305 01 OF 03 120643Z  
HOWEVER, PRESSURE MUST BE WELL ORCHESTRATED AND WELL THOUGHT OUT. WITHOUT SOLID GROUNDING IN FACT, BETTER INTERNAL COORDINATION AND PRIOR CONSULTATION WITH US AND ICTY'S OTHER SUPPORTERS, THE OTP'S GOTOVINA "STRATEGY" MAY END UP BEING JUST ANOTHER FUTILE AND PYRRHIC CONFRONTATION WITH THE GOC.  
END SUMMARY.

FIGHTING WORDS...

[1](#)3. (C) IN THE STRONGEST LANGUAGE USED BY AN ICTY OFFICIAL SINCE THE CRISIS OVER GENERAL BOBETKO FLARED IN SEPTEMBER 2002, HARTMANN ACCUSED THE GOC OF FAILING TO APPREHEND FUGITIVE CROATIAN GENERAL AND ICTY INDICTEE ANTE GOTOVINA. GOTOVINA, HARTMANN ALLEGED, WAS "TRAVELING FREELY IN CROATIA." HARTMANN ALSO ACCUSED THE GOC OF "SELECTIVE, SLOW AND INCOMPLETE COMPLIANCE WITH SPECIFIC REQUESTS FOR DOCUMENTS."

[1](#)4. (C) IN LIGHT OF HARTMANN'S STATEMENT, WE MET FEBRUARY 6 WITH ICTY ZAGREB OFFICE RESREP THOMAS OSORIO (PROTECT THROUGHOUT). ALTHOUGH HE WOULD NOT -- OR COULD NOT -- GO INTO DETAILS, OSORIO ASSERTED THAT THE OTP HAS EVIDENCE TO BACK UP HARTMANN'S ACCUSATION ON GOTOVINA. THERE ARE "NEW SIGHTINGS AND NEW INFORMATION," ALTHOUGH HE SAID THAT NONE OF THE NEW LEADS ARE AS SOLID AS THE REPORTED SFOR SIGHTING OF GOTOVINA IN HERCEGOVINA IN 2002 (REF D). IN SUM, ICTY NOW IS CONVINCED THAT GOTOVINA IS MOVING IN AND OUT OF CROATIA AND THAT THE GOC HAS NOT/NOT BEEN ACTING IN GOOD FAITH TO APPREHEND HIM. OSORIO NOTED THAT IF THE EU MADE GOTOVINA'S CAPTURE A PRECONDITION FOR ACTING ON CROATIA'S EU MEMBERSHIP

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PAGE 04 ZAGREB 00305 01 OF 03 120643Z  
APPLICATION, THE GOC WOULD CAPTURE THE GENERAL WITHIN "24 HOURS."

...AND A NEW OTP "STRATEGY"

[1](#)5. (C) DURING OUR DISCUSSION, OSORIO CALLED HARTMANN AND CONFIRMED THAT HER STATEMENT WAS ISSUED UNDER INSTRUCTIONS

FROM CHIEF PROSECUTOR DEL PONTE. OSORIO CONCLUDED THAT HER STATEMENT WAS THE OPENING SALVO OF A NEW ICTY "STRATEGY" TO FORCE THE GOC TO TAKE STRONGER ACTION TO FIND GOTOVINA, OR SHOULD THE GOC BALK, DEMONSTRATE CATEGORICALLY THAT CROATIA IS FAILING TO COMPLY WITH ITS ICTY OBLIGATIONS. ACCORDING TO OSORIO, THIS STRATEGY WOULD CALL FOR CROATIAN LAW ENFORCEMENT TO CONDUCT HIGH VISIBILITY RAIDS ON GOTOVINA'S HOMES, INTERVIEW GOTOVINA'S ATTORNEYS AND ASSOCIATES AND MOUNT ROADBLOCKS IN AREAS OF DALMATIA WHERE THE SUSPECT IS BELIEVED TO FREQUENT. ICTY STAFF WILL ACTIVELY MONITOR THESE AND OTHER ACTIVITIES AND MAY SEEK TO ACCOMPANY THE POLICE ON THEIR RAIDS TO VERIFY GOC COMPLIANCE.

16. (C) OSORIO SAID THAT THIS NEW AGGRESSIVE STRATEGY HAS BEEN THE CAUSE OF MUCH DEBATE WITHIN ICTY BETWEEN "ACTIVISTS," WHO

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CONFIDENTIAL PTQ7424

PAGE 01 ZAGREB 00305 02 OF 03 120644Z  
ACTION SWCI-00

INFO	LOG-00	CIAE-00	DODE-00	SRPP-00	EUR-00	VC-00	TEDE-00
	INR-00	L-00	VCE-00	AC-01	NSAE-00	NSCE-00	OMB-01
	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00	SS-00
	TRSE-00	T-00	USIE-00	PMB-00	DRL-01	G-00	SAS-00
	/003W						

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P 111735Z FEB 03  
FM AMEMBASSY ZAGREB  
TO SECSTATE WASHDC PRIORITY 9419  
INFO AMEMBASSY BELGRADE PRIORITY  
AMEMBASSY LONDON PRIORITY  
AMEMBASSY MOSCOW PRIORITY  
AMEMBASSY SARAJEVO PRIORITY  
AMEMBASSY THE HAGUE PRIORITY

C O N F I D E N T I A L SECTION 02 OF 03 ZAGREB 000305

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SUBJECT: DOES THE OTP HAVE A STRATEGY FOR CROATIA?

WANT TO USE ICTY'S LEVERAGE TO PUSH THE GOC TO FIND GOTOVINA,  
AND "LEGALISTS," WHO BELIEVE THAT ICTY'S SOLE FUNCTION IS TO  
RULE ON COMPLIANCE/NON-COMPLIANCE AND INFORM THE UNSC OF ITS  
CONFIDENTIAL

PAGE 02 ZAGREB 00305 02 OF 03 120644Z  
FINDINGS. (OSORIO LISTED HIMSELF AND CHIEF PROSECUTOR DEL  
PONTE AS "ACTIVISTS.") OSORIO SAID THAT THE ICTY ALREADY HAS  
RECEIVED A PROTEST NOTE FROM THE RUSSIAN AMBASSADOR IN THE  
HAGUE ACCUSING THE TRIBUNAL OF A DOUBLE STANDARD FOLLOWING  
DEL PONTE'S SPEECH TO THE UN LAST OCTOBER -- A SPEECH IN  
WHICH SHE DECLARED SERBIA TO BE IN NON-COMPLIANCE FOR ITS  
FAILURE TO DELIVER RATKO MLADIC, BUT ONLY WARNED CROATIA OVER  
ITS FAILURE TO DELIVER GOTOVINA. OSORIO EXPECTS MORE  
COMPLAINTS FROM THE RUSSIANS OVER THE OTP'S GOTOVINA GAMBIT;  
HE ANTICIPATED THAT THE RUSSIANS WILL INSIST AGAIN THAT ICTY  
SHOULD DECLARE CROATIA NON-COMPLIANT. HOWEVER, OSORIO ARGUES  
THAT, UNLIKE THE MLADIC CASE, THE OTP NEEDS TO PRESS FOR  
VISIBLE ACTION TO DEBUNK THE GOC ARGUMENT THAT GOTOVINA FLED  
THE REGION.

WHERE'S THE PROOF?  
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17. (C) OTP FRUSTRATION WITH GOC PASSIVITY ON GOTOVINA IS  
UNDERSTANDABLE; THE GOC DREADS THE PROSPECT OF HAVING TO  
TRANSFER GOTOVINA TO THE HAGUE AND DESPERATELY DOES NOT WANT  
THE GENERAL TO BE IN CROATIA. HOWEVER, OUR EXPERIENCE WITH  
MUCH OF WHAT WE KNOW OF THE OTP'S "EVIDENCE" ON GOTOVINA IS  
THAT IT IS BASED ON CIRCULAR REPORTING AND HEARSAY. WHILE  
GOTOVINA VERY WELL MAY BE IN THE REGION, WE HAVE SEEN  
NOTHING, ASIDE FROM THE SFOR SIGHTING, TO UNDERPIN THE HARSH  
OTP STATEMENT THAT GOTOVINA IS "WALKING FREELY" IN CROATIA  
(AND WE HAVE BEEN ASKING OSORIO AND THE CROATIANS FOR  
MONTHS). PER REF B, OTP POLITICAL ADVISOR JEAN-JAQUES JORIS  
TOLD OUR COLLEAGUES IN THE HAGUE THAT "CROATIAN AND FOREIGN  
SOURCES" SUPPORTED THE OTP CLAIM THAT GOTOVINA WAS MOVING  
CONFIDENTIAL

PAGE 03 ZAGREB 00305 02 OF 03 120644Z  
FREELY IN CROATIA. HE SAID THAT THE CROATIAN SOURCE WAS (OR  
INCLUDED) PRESIDENT MESIC. HOWEVER, MESIC'S FOREIGN POLICY  
ADVISOR TOLD US THAT MESIC BASED HIS STATEMENT ON A CROATIAN  
INTELLIGENCE REPORT, WHICH, WE KNOW FOR A FACT, WAS BASED ON  
A FALSE SIGHTING OF GOTOVINA IN ZAGREB AND OTHER CIRCULAR  
REPORTING. OTHER REPORTED "SIGHTINGS" OF GOTOVINA HAVE  
PROVEN TO BE EQUALLY UNSUBSTANTIATED.

## DOCUMENT SHARING

18. (C) OSORIO SAID HE WAS NOT CONSULTED BEFORE HARTMANN ISSUED HER STATEMENT. IN HIS VIEW CRITICISM OF THE GOC'S PERFORMANCE ON INFORMATION SHARING WAS OVERSTATED AND THE GOC, AS A RULE, WAS RESPONSIVE ON DOCUMENT REQUESTS. ACCORDING TO OSORIO, THERE ARE THREE OUTSTANDING DOCUMENT DELIVERY PROBLEMS: 1) THE GOC HAS FAILED TO DELIVER BODY COUNT AND AUTOPSY RESULTS CONDUCTED BY THE CROATIAN MILITARY AFTER OPERATION STORM; 2) THE GOC HAS NOT MET A DEADLINE TO PROVIDE DEMOGRAPHIC DATA WHICH ICTY NEEDS TO HELP DEMONSTRATE YUGOSLAV ETHNIC CLEANSING FOR THE MILOSEVIC TRIAL; AND 3) THE GOC HAS MISSED A NUMBER OF DEADLINES ON INFORMATION LINKED TO INVESTIGATIONS OF CROATIAN WAR CRIMES IN BOSNIA. IN THE CASE OF THE FIRST TWO DOCUMENT SHARING ISSUES, OSORIO TOLD US THAT THE GOC FAILURE TO DELIVER THE DOCUMENTS WAS A TECHNICAL, SHORT-TERM HICCUP. IN FACT, IN THE CASE OF THE BODY COUNT INFORMATION, OSORIO SAID THAT HE HAD OBTAINED A BOOTLEG COPY FROM THE HEAD OF THE GOC COMMISSION FOR MISSING PERSONS. IN THE CASE OF THE OUTSTANDING BIH INFORMATION, THE ISSUE COULD HAVE BEEN HANDLED "THROUGH REGULAR CHANNELS," OSORIO ASSERTED.

CONFIDENTIAL

PAGE 04 ZAGREB 00305 02 OF 03 120644Z

19. (C) ALTHOUGH PROBLEMS EXIST, THERE IS ALSO PROGRESS. OSORIO CONFIRMED THAT THE GOC GAVE PERMISSION FOR THE OTP AND THE CROATIAN PROSECUTORS' OFFICE TO BEGIN TO SHARE INFORMATION DIRECTLY. AN ICTY PROSECUTOR WAS SENT TO ZAGREB FEBRUARY 5 TO WORK WITH HIS COUNTERPARTS TO SOLIDIFY THE CROATIAN CASE AGAINST LOWER LEVEL PERPETRATORS IN THE MEDAK POCKET AND TO SEEK ADDITIONAL INFORMATION TO BOLSTER THE OTP'S CASE AGAINST GENERAL ADEMI FOR CRIMES COMMITTED IN THE SAME OPERATION.

BOBETKO: CASE FROZEN

110. (C) OSORIO CONFIRMED THAT, AFTER REVIEWING THE ICTY MEDICAL SPECIALISTS' REPORT, CHIEF PROSECUTOR DEL PONTE RECOMMENDED TO THE PRESIDING JUDGE THAT THE TRIAL OF FORMER CROATIAN CHIEF OF THE GENERAL STAFF JANKO BOBETKO BE SUSPENDED BECAUSE OF HIS POOR HEALTH. ICTY WILL SEND ANOTHER MEDICAL TEAM TO ZAGREB IN THREE TO FOUR MONTHS TO REVIEW BOBETKO'S HEALTH, BUT BARRING A MIRACULOUS RECOVERY FROM PROGRESSIVE HEART AND RENAL FAILURE, OTP'S PURSUIT OF THE HIGHEST RANKING CROATIAN TO BE INDICTED BY ICTY IS AT AND

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CONFIDENTIAL PTQ7428

PAGE 01 ZAGREB 00305 03 OF 03 120645Z  
ACTION SWCI-00

INFO	LOG-00	CIAE-00	DODE-00	SRPP-00	EUR-00	VC-00	TEDE-00
	INR-00	L-00	VCE-00	AC-01	NSAE-00	NSCE-00	OMB-01
	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00	SS-00
	TRSE-00	T-00	USIE-00	PMB-00	DRL-01	G-00	SAS-00
	/003W						

-----34D24F 120645Z /20

P 111735Z FEB 03  
FM AMEMBASSY ZAGREB  
TO SECSTATE WASHDC PRIORITY 9420  
INFO AMEMBASSY BELGRADE PRIORITY  
AMEMBASSY LONDON PRIORITY  
AMEMBASSY MOSCOW PRIORITY  
AMEMBASSY SARAJEVO PRIORITY  
AMEMBASSY THE HAGUE PRIORITY

C O N F I D E N T I A L SECTION 03 OF 03 ZAGREB 000305

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END. OSORIO DID NOT INDICATE THAT THE OTP WOULD CONDUCT A "LESSONS LEARNED" EXERCISE OVER BOBETKO. HE DID EXPRESS HOPE, HOWEVER, THAT IN THE AFTERMATH OF THE BOBETKO CRISIS,

CONFIDENTIAL

PAGE 02 ZAGREB 00305 03 OF 03 120645Z  
ICTY FINALLY WOULD ESTABLISH THE BASIC STANDARDS WHICH WOULD HELP PROSECUTORS DETERMINE THE FITNESS OF AN INDICTEE TO STAND TRIAL.

11. (C) WITH BOBETKO OUT OF THE PICTURE, THE OTP IS STRUGGLING TO MAKE SENSE OF ITS PROSECUTION STRATEGY FOR THE

ENTIRE MEDAK POCKET WAR CRIMES CASE. BOBETKO WAS AT THE TOP OF THE PYRAMID OF THE MILITARY CHAIN OF COMMAND -- INDICTEE RAHIM ADEMI WAS THE CHIEF MILITARY OFFICER IN THE FIELD. GENERAL MIRKO NORAC, WHOSE INDICTMENT WAS DEFERRED AT THE REQUEST OF THE GOC SO THAT IT COULD TRY A SEPARATE WAR CRIMES CASE ("GOSPIC") LOCALLY, HEADED THE CROATIAN MILITARY UNIT PRINCIPALLY RESPONSIBLE FOR THE ATROCITIES AT MEDAK. WITH BOBETKO GONE, OSORIO SAID THAT THE OTP WILL HAVE TO REEXAMINE THE INDICTMENT AGAINST ADEMI AND THE PENDING INDICTMENT AGAINST NORAC. (OSORIO TOLD US THAT ICTY RECENTLY HAD DISCUSSED WITH CHIEF PROSECUTOR MLADEN BAJIC THE POSSIBILITY THAT HE INCLUDE NORAC IN THE LOCAL CROATIAN INDICTMENT OF LOWER-LEVEL SOLDIERS THAT BAJIC IS PREPARING.)

12. (C) ACCORDING TO OSORIO, MEDAK IS IMPORTANT FOR ICTY, NOT JUST BECAUSE THE OTP BELIEVES THIS TO BE ONE OF THEIR STRONGEST CROATIA CASES, BUT BECAUSE IT WILL BE A TEST-BED FOR ITS EFFORTS TO PROVE THAT THE GOC CONCEPTUALIZED AND PRE-PLANNED THE 1995 OPERATION STORM AS AN ETHNIC CLEANSING OPERATION. OSORIO HAS TOLD US THAT THE PROSECUTION BELIEVES IT HAS EVIDENCE THAT THE SAME ORGANIZED TECHNIQUES TO RAZE SERB VILLAGES IN MEDAK WERE USED ON A WIDER SCALE AFTER OPERATION STORM.

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PAGE 03                   ZAGREB 00305 03 OF 03 120645Z  
COMMENT  
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13. (C) THE OTP IS UNDERSTANDABLY FRUSTRATED. THE BOBETKO CASE, AND YEARS AND YEARS OF WORK, IS SLIPPING AWAY WITHOUT A DAY IN COURT. JUSTICE IS DENIED AND THE GOC, WHICH EVADED FOR MONTHS ITS RESPONSIBILITY TO ACT AS ICTY'S AGENT ON THE CASE, HAS COME OUT THE WINNER. THE BRITISH, WHO WENT OUT ON A LIMB TO SUPPORT THE OTP ON BOBETKO BY SUSPENDING CROATIA'S STABILIZATION AND ASSOCIATION AGREEMENT, ARE FURIOUS WITH THE OTP ABOUT THIS. SO ARE WE. IN THE PROCESS OF BACKING DEL PONTE, WE DAMAGED OUR RELATIONSHIP WITH DEPUTY PRIME MINISTER GORAN GRANIC, ONE OF THE GOC'S KEY DECISIONMAKERS. AS A RESULT OF THE BOBETKO CRISIS, THOSE IN CROATIA -- INCLUDING THOSE WITHIN THE GOC -- WHO ARGUED THAT CROATIA SHOULD HOLD FIRM FOR A SOLUTION MORE TO ITS LIKING WERE VINDICATED. THEY MAY BE EMBOLDENED TO TAKE THE SAME HARD, "WE KNOW BETTER," STANCE ON NEW ICTY INDICTMENTS OR ON OTHER THORNY ISSUES SUCH AS REFUGEE RETURN.

14. (C) THE OTP'S ACTIONS HAVE ENORMOUS CONSEQUENCES FOR CROATIA, THE REGION AND US. BOBETKO'S REAL AND SERIOUS MEDICAL AILMENTS WERE WELL KNOWN -- A RESPECTED CROATIAN HUMAN RIGHTS LEADER TOLD THE AMBASSADOR SHORTLY AFTER BOBETKO WAS INDICTED THAT "NO ONE WHO KNEW BOBETKO'S MEDICAL CONDITION WOULD HAVE INDICTED HIM," AND WONDERED WHY DEL PONTE DECIDED NOT TO DO SO. AS REPORTED REF D, DEL PONTE -- DESPITE GOC REQUESTS AND OTP STAFF INTENT -- PASSED UP AN OPPORTUNITY TO INTERVIEW THE 83-YEAR OLD GENERAL BEFORE ISSUING THE INDICTMENT, APPARENTLY FOR NO SOLID REASON.

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PAGE 04                   ZAGREB 00305 03 OF 03 120645Z  
15. (C) HARTMANN'S UNSUBSTANTIATED STATEMENT, THE OTP'S LACK OF CONSULTATION WITH ITS OWN REPRESENTATIVE ON THE GROUND, AND THE DEVELOPMENT OF A "STRATEGY" WITHOUT PRIOR DISCUSSION WITH THE ICTY'S INTERNATIONAL COMMUNITY SUPPORTERS SUGGESTS THAT THE OTP WILL STUMBLE AGAIN, THIS TIME ON THE GOTOVINA CASE. THE OTP MUST DO BETTER. AS A FIRST STEP, WE SHOULD DEMAND THAT THE OTP PRESENT TO US ITS EVIDENCE THAT GOTOVINA IS "FREELY MOVING" IN CROATIA. AS THINGS STAND, WE ARE SKEPTICAL OTP HAS EVIDENCE -- WE SHOULD DEMAND TO KNOW. IF IT DOES HAVE EVIDENCE AND IT IS CREDIBLE, WE SHOULD INSIST THAT THE OTP CONSULT WITH US AND THE BRITISH ABOUT ITS "STRATEGY" FOR PRESSING THE GOC TO ACT. THE QUESTION IS NOT WHETHER WE SHOULD PRESS THE GOC ON WAR CRIMES AND ICTY COOPERATION, BUT HOW TO ORCHESTRATE THAT PRESSURE TO THE BEST EFFECT. OTHERWISE, WE RISK GOING OUT ON A LIMB AGAIN FOR DEL PONTE ONLY TO HAVE IT BREAK UNDER US.  
ROSSIN

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